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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/802,408

03/17/2004

Jeffrey D. Carnevali

NPI-023

3835

7590  
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Seattle, WA 98146

06/23/2009

EXAMINER

MARSH, STEVEN M

ART UNIT

PAPER NUMBER

3632

MAIL DATE

DELIVERY MODE

06/23/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/802,408	<b>Applicant(s)</b> CARNEVALI, JEFFREY D.	
	<b>Examiner</b> STEVEN M. MARSH	<b>Art Unit</b> 3632	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 25 March 2009.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1,3-20,22-24 and 27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 18-20 and 22-24 is/are allowed.
- 6) ☒ Claim(s) 1,3,4,8,12,13 and 27 is/are rejected.
- 7) ☒ Claim(s) 5-7,10,11 and 14-17 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

This is the seventh office action for U.S. Application 10/802,408 for a Configurable Mounting Bracket filed by Jeffrey Carnevali on March 17, 2004. The indicated allowability of claims 9, 12, and 13 is withdrawn in view of the reference(s) to Nells et al. Rejections based on the reference(s) follow.

#### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on March 25, 2009 has been entered.

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 3, 4, 9, 12, 13, and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,503,526 to Nells et al. Nells et al. discloses a mounting bracket with three support rods (32) each being limited to a solitary non-

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extensible member of single-piece construction and independently permanently bendable in three dimensions along the entire length (the rods are bent) thereof between a first and second end portion. There is a means (23) for clamping the first end portions of the plurality of support rods in a fixed arrangement and a means (34) for securing the second end portions of the plurality of support rods relative to an external surface. The securing means comprises a means for permanently securing the second end portion of one of the support rods relative to an external surface and means (each rod has a securing means 34) for resisting relative slipping of the second end portion of a different support rod. The clamp mechanism is structured for clamping first end portions of the support rods in a fixed arrangement and the shoe mechanism is coupled to the second end portions of the rods and structured for receiving a mechanical fastener (a nail or screw could be driven through 34 and a surface) for permanently securing the respective second end portion in a fixed relation to an external surface. The length of one of the unitary rods is different from a length of a second one of the rods (the rod received in 24 is longer than the rods received in 18).

Nells et al. does not disclose the rods as having a substantially uniformly solid cross-section extended substantially continuously from the first end to the second end of the rods. Nells et al. discloses that the legs define medial channels to lessen the overall weight of the structure and provide increased resilience (col. 4, lines 62-65). However, one of ordinary skill in the art would know that the legs could be made solid to provide increased strength for the legs. Nells et al. also fails to disclose the material used for the rods or the specific dimensions. However, aluminum and steel are known

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materials used for fan frames and it would have been obvious to one of ordinary skill to utilize one of the metals as a design preference, as would the shape of the rod (cylindrical rather than square) and the specific diameter.

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,503,526 to Nells et al. in view of U.S. Patent 6,173,928 to Coats. Nells et al. does not disclose a flexible sheath covering the support rods. Coats discloses a support assembly with a plurality of supports that are covered by sheaths (102) for aesthetic purposes. It would have been obvious to one of ordinary skill in the art to sheaths around the support rods of Nells et al. for aesthetic purposes as taught by Coats. Using the known technique of encasing the rods for aesthetic purposes in the device taught by Nells et al. would have been obvious to one of ordinary skill in the art.

### ***Allowable Subject Matter***

Claims 18-20 and 22-24 are allowed. Claims 5-7, 10, 11, and 14-17 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### ***Response to Arguments***

Applicant's arguments with respect to claims 1, 3, 4, 9, 12, 13, and 27 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to STEVEN M. MARSH whose telephone number is (571)272-6819. The examiner can normally be reached on 8:30 am - 7:00 pm (Monday-Thursday).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J Allen Shriver can be reached on 571-272-6698. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/S. M. M./  
Examiner, Art Unit 3632  
June 20, 2009

/Kimberly T. Wood/  
Kimberly T. Wood  
Primary Examiner

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